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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/579,670	05/26/2000	Miles Aram de Forest	DG-663	3652

7590 04/25/2003
Gary D Clapp Esq
66 Blanford Place
Bedford, NH 03110

EXAMINER

ZIEMER, RITA A

ART UNIT	PAPER NUMBER
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2184

DATE MAILED: 04/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/579,670

Applicant(s)

DE FOREST ET AL.

Examiner

Rita A Ziemer

Art Unit

2184

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Abstract of the Disclosure

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Applicants Abstract is longer than 150 words. Correction is required.

Specification

2. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 3, 5, 9, 11, 13 and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Rastogi et al., U.S. Patent No. 6,205,449.

As per claims 1, 3, 5, 9, 11, 13 and 15, Rastogi teaches a memory and dual control/processing sub-systems each including a processor performing file transaction operations, (column 3 lines 8-21 and figure 1) and a transaction logging mechanism, (column 3 lines 20-25 and figure 1 # 112) including a log for storing the information of the corresponding control/processing sub-system, (column 3 lines 25-30) the transaction logging mechanism storing transactions allowing the state of the machine to be shared with the secondary system, (column 3 lines 25-57) wherein the log generator is responsive to the restoration of operation after a failure of the corresponding control/processing sub-system for reading the information from the log and restoring the state of execution of a file transaction of the corresponding control/processing sub-system. (Column 3 lines 35-61) Rastogi does not specifically state that a log generator is used. The use of a log generator is inherent because the log entries must be

generated in order to create the transaction log as indicated is being maintained by Rastogi. (Column 3 lines 25-30)

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2, 4, 6, 8, 10, 12, 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rastogi et al., U.S. Patent No. 6,205,449.

As per claims 2, 4, 6, 8, 10, 12, 14 and 16, Rastogi teaches a back-up mechanism responsive to the restoration of operation of the other control/processing sub-system after a failure of the other control/processing sub-system for reading the information from the log back-up mechanism to the other control/processing sub-system and restoring the state of execution of a file transaction of the other control/processing sub-system. (Column 3 line 48 – column 4 line 59) Rastogi does not specifically state that the back up is receiving and storing mirror copies of the state machine information. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to allow Rastogi to send and receive mirror copies to back up the log records because a mirror is defined as a duplicate set of files, (Microsoft Press Computer Dictionary: Third Edition) and Rastogi could copy all of the log as it is at least a portion of the log records (column 2 lines 33-35) because full recovery in the event of

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a failure is what Rastogi intends. (Column 2 lines 43-44) By fully providing copies of the log to the secondary system, (column 3 lines 47-57) Rastogi would be sending and receiving mirror copies. This would have motivated one of ordinary skill in the art to implement a mirroring system in Rastogi for the advantages set forth above.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rita Ziemer, whose telephone number is (703) 308-7090. The examiner can normally be reached on Monday - Thursday and alternating Fridays from 7:30 a.m. to 4:00 p.m. EST.

If attempts to reach the examiner by phone fail, the examiner's supervisor, Robert W. Beausoliel, Jr., can be reached at (703) 305-9713. Additionally, the fax numbers for Art Unit 2184 are as follows:

After-final (703) 746-7238

Official (703) 746-7239

Non-Official/Draft (703) 746-7240

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist at (703) 305-9600.

Rita Ziemer

4/21/03



Robert W. Beausoliel, Jr.
Supervisory Patent Examiner
Art Unit 2184